

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

V.

NO. 3:20-CR-155-KHJ-FKB

TANYA HENRY SHELBY

ORDER

Before the Court is Tanya Henry Shelby's Motion to Alter or Amend a Judgment Pursuant to Rule 59(e) and to Stay the Report Date [32]. On August 17, 2022, the Court sentenced Shelby to 12 months and 1-day imprisonment which was a *substantial* downward variance from her guideline range of 33 months to 41 months. Not satisfied with this generous variance, she now asks for reconsideration of her sentence of imprisonment. She seeks no prison time. Because this Court lacks jurisdiction to reduce her sentence imprisonment, her Motion is denied.

Shelby argues that the Court should modify her sentence because the victim of the crime, Mississippi National Guard Credit Union, sent letters after her sentencing asking that she not be incarcerated. Shelby contends this "new evidence" supports a sentence reduction. But the Court also received a letter from the Credit Union President before her sentencing asking that she not be incarcerated. [24-4 (Sentencing Letters)].

The Court is under a continuing duty to address its jurisdiction, *sua sponte*, if necessary. This Court is prohibited from modifying a sentence of imprisonment once it has been imposed, except under certain limited circumstances, none of which are

present. *See* 18 U.S.C. § 3582(c); *United States v. Early*, 27 F.3d 140, 141 (5th Cir.1994); *see also United States v. Castelan*, 73 F. App'x 80, 2003 WL 21756791, *1 (5th Cir. June 24, 2003). Nor are any of the criteria which would justify correcting or reducing a sentence of imprisonment pursuant to Federal Rule of Criminal Procedure 35 met here. *See Fed.R.Crim.P. 35.* Because Shelby's Motion does not fall under any applicable provision of either section 3582(c) or Rule 35, any reduction of her prison sentence would be unauthorized and with no jurisdictional basis. *See Early*, 27 F.3d at 141; *Castelan*, 2003 WL 21756791, at *1.

For this reason, Shelby's Motion [32] is denied. Shelby must report for service of her sentence at the institution designated by the Bureau of Prisons before 12:00 p.m. on October 28, 2022. [27 (Judgment)].

This 2nd day of October, 2022.

/s Kristi H. Johnson

UNITED STATES DISTRICT JUDGE